

REMARKS

Claims 1-16, 18, and 19 are pending in the present application. Claims 17 and 20 were previously cancelled. No claims have been amended herein. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

Claims 1-16, 18, and 19 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent Application Publication No. 2003/0086425 (hereinafter “Bearden”) in view of U.S. Patent No. 5,488,609 (hereinafter “Hluchyj”). Applicants respectfully traverse these rejections.

Applicants’ claim 1 recites, “*detecting forwarding quality violations* in at least one path between the measurement nodes” and “selecting at least one potentially overloaded interface along the at least one path *where forwarding quality violations were detected* by combining knowledge about different end-to-end measurements performed in the data network with knowledge about network topology and knowledge about booking levels and forwarding capacity for interfaces along the at least one path.” Thus, claim 1 recites that the detecting is performed by combining (1) knowledge about different end-to-end measurements, (2) knowledge about network topology, and (3) knowledge about booking levels and forwarding capacity for interfaces along the at least one path. The Office Action asserted that the limitations of the detecting step are disclosed in paragraphs [0206] and [0207] of Bearden and the limitations of the selecting step are disclosed in paragraphs [0089], [0092], and [0237] of Bearden. Applicants respectfully disagree.

Initially, it should be noted that Bearden simply discloses a system for determining whether or not a network is suitable for a new application. “The invention [of Bearden] described . . . overcomes the limitations of prior art for the purpose of evaluating a network to

determine its suitability for target applications.” Bearden, paragraph [0052]. To accomplish this, Bearden describes a four-part process: Topology Discovery, Network Device Monitoring, Call Synthesis and Call Quality Monitoring, and Analysis. It should also be noted that Bearden discloses an off-line tool in that the analysis takes place after the fact.

Referring first to the detecting step, the Office Action asserted that paragraphs [0206] and [0207] disclose this step. This is incorrect. Rather, paragraphs [0206] and [0207] refer to *data collection*. There is nothing in these paragraphs that describe how the data is analyzed, much less what is “detected” by examination of the collected data.

The Office Action also failed to explain how Bearden discloses that the detecting step is performed as recited in Applicants’ claim 1. As discussed above, Applicants’ claim 1 recites that the “forwarding quality violations were detected by combining knowledge about different end-to-end measurements performed in the data network with knowledge about network topology and knowledge about booking levels and forwarding capacity for interfaces along the at least one path,” to which the Office Action identified paragraphs [0089], [0092], and [0237] of Bearden. Paragraph [0089] of Bearden assertedly discloses discovering the network topology and fails to disclose anything regarding how a forwarding quality violation is detected. Similarly, paragraph [0092] of Bearden simply discloses collecting “the number of incoming and outgoing octets on all of its interfaces, the number of discarded packets on all of its interfaces, and CPU usage” and fails to disclose anything regarding how a forwarding quality violation is detected. (It should also be noted that paragraphs [0089] and [0092] are part of the Topology Discovery phase and the Network Device Monitoring phase, respectively.) While paragraph [0237] of Bearden assertedly discloses the ability to determine which links were on a call path that could impact call quality, it also fails to disclose how a forwarding quality violation is

actually detected. Rather, it would appear that paragraph [0237] is only concerned about presenting data, not the detection of a forwarding quality violation.

Accordingly, in view of the above remarks, Applicants respectfully submit that claim 1 is allowable over the cited references. Applicants' claim 9 recites similar limitations and is allowable over the cited references for at least similar reasons. Accordingly, Applicants respectfully request that the rejections to claims 1 and 9 be withdrawn. Claims 2-8, 10-16, 18, and 19 depend from and add further limitations to one of claims 1 and 9. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Roger C. Knapp, Applicants' Attorney, at 972-732-1001, so that such issues may be resolved as expeditiously as possible. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

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